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THE SO-CALLED CRIMINAL TYPE

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To the average newspaper-reader criminals appear as a class of persons who, from their own bent, live by crime, and gather associates of the same character. This character he conceives as showing an ill-defined abnormality which, though not lessening their responsibility, tends to make of the criminal a distinct human type. Such a conception seems to find scientific support from the school of criminologists of which Lombroso is the originator and the best known exponent. The central tenet of this school is expressed in the following definition by Havelock Ellis: "The criminal is an individual whose organization makes it difficult or impossible for him to live in accordance with the standard of the community, and easy to risk the penalty of acting anti-socially."¹ Lombroso himself considers the "criminal by occasion"—the man who at one time or another gets arrested for some trifling offense—as the only offender in whom no trace of abnormality appears. Ferri, however, the ablest of Lombroso's disciples, concedes as normal persons not only the occasional criminal, but the "criminal by passion." What these criminologists regard as the criminal type must therefore be found among those whose motives for offending seem incomprehensible, or among habitual offenders. Ferri estimates this class to make up approximately from 40 to 60 per cent of the total prison population; but accurate statistics on this point await the day of perfect records, and of a complete system for identifying prisoners.

For the sake of clearness, let us consider among the habitual offenders, first the normal, and then the abnormal or pathological. Of really normal persons that drift into a criminal life

¹ *The Criminal*, p. 206.

the numbers are likely to lessen with improved social and economic conditions. Years of dissipation and crime, however, may make a person who would otherwise have passed as normal, indistinguishable from the admittedly abnormal. The abnormal or pathological convict is classed by the Lombrosan school as insane, epileptic, atavistic, or born or instinctively criminal. The criminal who is manifestly insane requires no discussion. In his case all agree as to the fact of disease. But the so-called atavistic or instinctive criminal—sane but out of date—and the “moral imbecile”—at once atavistic and pathological—call for special attention. The lines between these classes are not conceived as distinct: they merge into and cross each other. In the case of any given criminal the elements may exist together. His crimes, we are told, may be the result partly of a reversion to the characteristics of a far-back, savage ancestry, and partly of an insane or epileptic taint in his immediate inheritance; or his mental taint and his atavistic traits may come from the same congenital cause.

The conception of delinquents entailed by the theory of atavism or of the instinctive criminal is a discouraging one. If a proportion of the race numerically worth taking account of is reverting to savagery, if another and larger proportion of intellectually normal persons is steadily coming into being without the capacity to learn right from wrong, the outlook for society is indeed menacing. For such offenders reform is out of the question. Segregation for life would be the only effective treatment and this treatment could seldom be brought about for persons otherwise normal. As for atavistic criminals, each generation must expect to begin just where the one before it had begun. No social measures could appreciably lessen their number.

These corollaries of the theory making a distinct type of atavistic or born criminals are so grave that one requires special assurance that they have been established by sound reasoning. To begin with that of atavism: Since among criminals, as among the lower races, there appears a larger proportion of cranial variations than among the general white population,²

² Sir William Turner, quoted by H. Ellis.

Lombroso infers that an important cause of crime is atavism. Yet the connection between cranial and cerebral features and the mind is far from being established.³ Even in the extremes of abnormality scientists as yet understand their relation only in a general way. Criminals, again, kill and steal, even as primitive men kill and steal. But the distinctively criminal element in their behavior is that in civilized society it is antisocial. The savage who kills or steals in accordance with the practice of his tribe is doing nothing antisocial. His fellows would treat him as criminal if he did not observe such practices, which they regard as necessary to the survival of the tribe itself. How do we know that the man who acts antisocially among us would not also act in disregard of the opinion of others, could he be transferred to the middle of Africa or Australia? He might violate religious taboos or insist on committing his homicides in a manner contrary to tribal custom. Again, who can say that the normal members of a primitive race, if brought up from infancy in the midst of civilization, would show the anti-social traits of a criminal? Our criminals, whatever their surroundings, have grown up aware of standards of right and wrong which they have not chosen to follow. Had they grown up in a savage state, they would possibly have shown the same indifference to public opinion. The most that can be said for the theory of atavism or true reversion, as applied to sociology, may be summed up in the cautious words of Professor J. A. Thomson, the biologist: "It is undeniable that our ancestral traits may remain long latent, apparently but never really lost, and that . . . they may suddenly find their appropriate liberating stimulus, and assert themselves once more."⁴ Whether or not the anomalies observed in criminals are such ancestral traits requires more proof than has so far been forthcoming.

³ "In the accounts published [of the microcephalic] the psychical manifestations are often passed over in a very superficial way, while there are long descriptions, not easy to follow, of convolutions and lobes whose functions have not yet been determined. In general we have more measurements that would be required for a mantua-maker, boot-maker, stay-maker, spectacle-maker, all at once, while the mental characteristics are passed over in loose terms, though the interest consists in knowing what mental power he possesses with his fraction of brain."—W. W. Ireland, *Mental Affections of Children*, 95.

⁴ J. A. Thomson, *Heredity*, p. 523.

Lombroso grants that reversion to an ancestral type may be united in the same person with arrested development, or what he calls "moral imbecility." He regards the moral imbecile as intellectually normal, because to all appearances he can think rationally on any subject except the very important one of his relation to society. This view is widely current. Only recently the New York murderer Wolter has been described as a "moral imbecile." Such characterizing rests on the assumption that a man's moral nature is quite distinct from his intellectual; that his judgment may be at complete variance with the average man's as regards his daily conduct, without discrediting his mind. This reflects the old-fashioned psychology that divided the mind into separate compartments of activity. Conscience, after all, is only mind turned toward conduct. It takes mind to be good, and to reach unusual moral altitudes takes unusual mind. A sane man, whether able or not, who never gives particular thought to questions of conduct, will have the moral standards of the people among whom he is thrown. If they are decent people, his standards will be nothing worse than commonplace and expedient; if they are degraded, his standards will be that much lower. But if he is so born that he actually prefers evil for its own sake, or that he is instinctively criminal, can he be regarded as intellectually normal? Dr. Fernald of the Massachusetts School for the Feeble Minded says:

Some of the cases reported were considered as typical cases of so-called "moral imbecility" without intellectual defect, until long observation and close analyses demonstrated that they were cases of *true imbecility*, while the antisocial tendencies of the ordinary imbecile were exaggerated to such an extent as to overshadow the presence of intellectual impairment and the existence of the characteristic physical, mental, and moral signs of congenital mental defect. I have never happened to see a well-marked case of so-called "congenital moral imbecility" which did not exhibit many, or indeed most of the significant stigmata of *true imbecility*. . . . Is not the typical instinctive criminal of Lombroso a typical adult imbecile of middle or high grade, plus opportunity and experience in the community?⁵

As for Lombroso's criminaloid, an attenuated instinctive criminal, specialists and social workers will recognize in him

⁵ W. E. Fernald, "The Imbecile With Criminal Instincts," *American Journal of Insanity*, April, 1909.

the "near feeble minded," that troublesome class which as yet can rarely be received into custodial care.

Since then, atavism, as an explanation of the criminal, is still unproven, and the instinctive criminal can be included under the head of the pathological, what classification remains? The occasional criminal, and the habitual criminal who develops from him, are normal persons. The insane, the epileptic or epileptoid, and the instinctive criminal are all pathological. Are not these two broad classes based more accurately on the facts, and quite as adequate for laboratory purposes as the artificial divisions of Lombroso? The first class is for sociologists to study, the second is for specialists in mental defect or derangement.

The conception of delinquents implied in this classification is an encouraging one. The pathological cases, being irresponsible, do not depress one's estimate of human nature. Normal criminals present a promising field for reformatory influences. These latter, instead of being, as is usually thought, creatures remote and of merely sensational interest, are much like the rest of us—on the whole, like the duller among us. The occasional criminal among girls—shop-lifters, for instance—is of a commonplace mind of very contracted interests, and of a weak and colorless, rather than bad character. On getting acquainted with such girls, I found that the one subject in which they were all interested was dress. They would know every slight change of fashion, and did what they could to adapt their wardrobes to prevailing modes. All of them were capable of earning a decent living, but only a very few could be called bright. They gave little evidence of thought in any direction except that of their immediate practical affairs. This, indeed, is true in my experience of all normal criminals. Out of some three hundred that I have known more or less, there were but three or four whose companionship for half a day would not be intolerably irksome. Once in a while I met a woman who put her own story dramatically. Usually, however, their stories showed a close resemblance to one another, especially in the case of petty crimes, and the extreme likelihood that they were false left

nothing to redeem their monotony. Of course any prisoner who should have the intelligence and the candor to know and to say just how she had been tempted, what struggle had gone on in her mind, why she had finally yielded, and what in her nature or past life had made her subject to that temptation, would be of absorbing interest. But she would be a bright woman. Self-knowledge and candor are rare in any walk of life, in prison or out. In order to come at the causes of a prisoner's offense, you must usually lead her to talk on, and draw your conclusions from her unconscious revelations of herself. As a social or pathological study, she will always hold attention. Yet so far as one can judge, she is no weaker in character than many girls who keep out of trouble. She is simply not trained to meet the circumstances under which she must live. Both training and circumstances, however, are in a measure within the control of society, and herein lies the encouragement of recognizing the largest class of criminals as normal persons.

This distinction between normal and pathological offenders emphasizes the need of a discrimination not at present shown either in laws or in court procedure. Unless the prisoner's derangement takes the form of raving lunacy, or outrageous delusion, he is likely, in a case not involving the death penalty, to be treated without question as responsible. I once knew a woman arrested for drawing a loaded pistol at an old acquaintance who, she thought, had swindled her out of her property. A searching investigation revealed not the slightest trace of her ever having had any property. Though her manner was perfectly quiet, her conversation was confused. She wrote a long letter, to tell in black and white what were her "proofs," as she called her muddled notions about her wrongs. The latter was a jumble of disconnected sentences. The means for determining insanity in that court were cumbersome and expensive; therefore, the woman was sent to the House of Correction for two months, with the expectation that her condition would be discovered by the institution authorities. Here I talked with the superintendent about her, and showed him her letter. Shortly after the doctor in attendance wrote me that he had examined her,

and found that she was "sane except in the one direction." A few months after her release she was again arrested for trying to shoot a woman—again from the notion about her lost property. This time she was examined by specialists, and was sent to the prison for criminal insane. It was just a chance that she had not committed murder.

A second deranged woman came under trial for perjury. The prosecuting attorney admitted her insanity, and was willing she should put that in as her plea. But while her brother-in-law was anxious that this disgraceful relative should be declared insane, her sister refused to consider it. She declared that she would rather have her sister in prison than in an asylum. As I talked with this sister, it became evident that she herself, though probably not actually insane, had the same nervous organization as the prisoner. Possibly she had wit enough to be aware of her own ill-balance, and so to wish in self-protection to conceal the family taint. The jail doctor, like the doctor at the House of Correction, gave the opinion that the prisoner's insanity was "only on one subject." These physicians must have had a low standard for the human intelligence. The fact was that the whole conversation of both these women showed some degree of mental disturbance. The outcome in the case of this insane perjurer, who had for years made trouble for everyone about her, was a sentence of two and a half years in the state's prison. Between the sister and the doctor a case plainly calling for medical care was turned over for punishment.

A more shocking case was that of a woman who was arrested for impairing the morals of her thirteen-year-old daughter. Six months before her arrest a physician, at the request of a certain charitable society, had examined this woman and pronounced her demented. For some reason she remained at large. On the day she was sentenced this physician came into court and repeated his testimony. The woman's family stated that her brother was in an asylum, and that they wished to have her deported. The court decided to give her six months' imprisonment and a \$500 fine, the fine to be remitted if she returned to Europe at the end of the six months. While in the penitentiary,

her state of mind grew rapidly worse. By the time arrangements for sending her to Europe had been completed, she could not be allowed to travel without an attendant. I was obliged to advise the court against her deportation. She served out her fine in the penitentiary and then returned to her husband in New York. Another pitiful case was that of a girl from a respectable family who was taken in one of the big department stores of New York for shop-lifting. She had picked up a silk skirt, hung it over her arm, and walked out of the store. The detective who caught her told her if she would promise never to do it again, he would let her go. She answered that she couldn't get work, and that so long as nobody would employ her she was going to steal. The detective told the court that he had no doubt about her derangement, and that he would be satisfied with a light punishment for her. It developed that in the establishment where she had worked off and on for a year past, she was considered insane, and that she had lost her position for this reason. Her family regarded her as peculiar and very annoying, but not as dangerous. She was placed on probation—for being insane, you may say. When she reported each week, she talked in a rambling way. She seemed not stupid, but dulled and rather depressed. At the end of two months she stopped coming. I found on calling at her home that a few days before she had broken out wildly insane late at night, and that her terrified family had been obliged to call in the police to take her off.

Now all four of these women would come under Lombroso's criminal type. Yet in each of their cases, if the woman's family or friends had placed her under special treatment as soon as her malady became evident to them, no crimes would have resulted. Carelessness, ignorance, and a mistaken kindness or family pride allowed disease to develop into crime. What is true of the insane is even more true of imbeciles of the higher grade, since the public is less alive to the dangerous character of these borderline defectives than to that of deranged persons. Social workers are coming to recognize that many delinquents on whom they have spent devoted labor to no avail are of this defective class. Girls and women of such a type are but too likely to bear

illegitimate children and thus not only to be a public burden and menace themselves, but to pass on a heritage of pauperism, vice, disease, and crime. Dr. Fernald says of defectives in this connection, "Every imbecile, especially the high-grade imbecile, is a potential criminal, needing only the proper environment and opportunity for the development and expression of his criminal tendencies. The unrecognized imbecile is a most dangerous element in the community."⁶ Yet the popular mind is quite unheeding of even the recognized imbecile as a source of danger. A lady said to me once of a defective girl who lived in the neighborhood, "Why, there's no harm in Carrie. I've known her all my life." In answer to a question, however, she admitted that Carrie did have violent attacks of temper, and had more than once been sent to an asylum. One may recall that the brother of the notorious Thaw wished him placed in an asylum some years before he became a recognized criminal.

One obstacle to the proper treatment of such deranged and dangerous persons is a prevalent sentimental unwillingness to take away anybody's liberty. This mistaken tenderness for individual freedom is at bottom a lack of civic imagination. A jail doctor in New York said to me that he would never swear away a man's liberty because he was insane "in one direction." I have met the same sentiment in other officials more kindly than wise or far-seeing. Another obstacle is the opposite fear in any serious case, lest a man should, via an asylum, get his freedom so quickly as to make his trial and conviction a farce. Between these two influences a good many cases go down in court and even prison records as criminal when they should be placed among the imbecile or insane.

As the courts and society at large gradually come to an enlightened understanding of the mentally defective and deranged, they will appreciate that civic welfare as well as kindness dictates that these most unfortunate persons should be removed from the community, and protected from their own irresponsible impulses. This course would take the most difficult element out of the prisons, and leave there only those who are capable of

⁶ *Op. cit.*

reform. The number of true criminals can gradually be reduced, as seems probable, by improvement in the social and economic conditions of society. The number of the insane and defective can also be reduced, largely by a segregation that will prevent them from entailing their curse upon the next generation, and also, it may be hoped, by a higher standard of morality, a wider knowledge and observance of the laws of hygiene, and more wholesome conditions of labor. Meanwhile there appears no adequate ground for pessimistic theories of the working of heredity. In society as a whole we may expect to find operative the law thus expressed by the biologist Thomson: "Increasingly we find the organism—be it bird or mammal or man—much more master of its fate, able to select its own environment in some measure, able to modify its surroundings as well as be modified by them. As we take a bird's-eye view of the course of evolution, must we not recognize the gradual emergence of the free agent?"⁷

⁷J. A. Thomson, *Heredity*, p. 517.